

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Sri Gadegoni Narsaiah @ Narasimham S/o Ramchandram @ Ramachandraiah died his LR's Sri Gadegoni Srinivasa Rao & others R/o.Jagannadhapuram (V), Mulakalapalli (M), Khammam District now Bhadradi Kothagudem district against the orders in CMA No.11/2003, dated 16.10.2004 of the Additional Agent to Government, Bhadrachalam, Bhadradi Kothagudem district – Revision Petition Dismissed - Orders – Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.34

Dated:24.07.2023.

Read the following:-

1. Revision Petition filed by Sri Gadegoni Narsaiah @ Narasimham S/o Ramchandram @ Ramachandraiah R/o.Jagannadhapuram (V), Mulakalapalli (M), Khammam District dated 02.02.2005.
2. Govt.Letter No.1292/LTR-2/2005-1, dated 05-03-2005.
3. Govt. Memo No.1292/LTR-2/2005-2, dated 05.03.2005.
4. From the District Collector, Khammam District. Lr.Rc.No.F2/CMA-11/2003, dated 22-07-2005.
5. From the Project Officer, ITDA, Bhadrachalam, letter Rc.No.A3/LTR/RP/1292/2005, dated 27.05.2005.
6. Govt.Memo.No.1292/LTR-2/2005, dated 01.07.2009.
7. From the Addl.Agent to Govt. & PO, ITAD, Bhadrachalam, letter RP.No.1292/LTR-2/05 (CMA No.11/2003), dated 19.01.2010.
8. Govt.Letter No.1292/LTR-2/2005, dated 16-06-2017.
9. Written arguments of the Counsel for the petitioner dated 15.07.2017.
10. Govt.Letter No.1292/LTR-2/2005, dated 13.10.2020.

ORDER:-

1. In the reference 1st read above, Sri Gadegoni Narsaiah @ Narasimham S/o Ramchandram @ Ramachandraiah R/o. Jagannadhapuram (V), Mulakalapalli (M), Khammam District now Bhadradi Kothagudem district has filed Revision Petition through his Counsel before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.11/2003, dated 16.10.2004 in respect of land in Sy.No.39 admeasuring Ac. 1-20 guntas at Jagannadhapuram village, Mulakalapalli Mandal, Khammam District now Bhadradi Kothagudem District contending as follows:

- i) Respondents ought to have seen that the petitioner has purchased the subject matter property on 4.2.1969 which is prior to the enactment as such initiation of eviction proceedings ex-facie illegal, arbitrary and violative of principles of natural justice.
- ii) Transaction between the non-tribals and sale transaction is much prior to the enactment as such impugned proceedings are not at all sustainable and lacking jurisdiction.
- iii) Respondents ought to have seen the proceedings initiated against a dead person showing him as a petitioner by the preliminary authority who died long ago is on the face of it void.
- iv) Both parties have failed to record reasons and also failed to record exact findings with regard to date of purchase and also date of possession of the petitioner herein and also failed to appreciate the continuous revenue records showing possession much prior to the enactment.
- v) Appellate authority without calling for records from the primary authority has dismissed the appeal mechanically and also failed to provide proper opportunity for hearing.
- vi) At first instance, the petitioner has approached the Hon'ble High Court and in WP No.612/05, dt.25.1.2005 directed the petitioner to approach the Revisional authority – accordingly this revision is being filed.

(Contd...2)

vii) The very transfer of appeal by Agent to Government to Project Officer is without jurisdiction and contrary to the Agency laws.

2. In the reference 2nd & 3rd read above, Government had granted Stay on the orders of the Additional Agent to Government, Bhadrachalam and sent a copy of the Revision Petition of the Petitioner to the Agent to Government & Collector, Khammam district and the Additional Agent to Government, Bhadrachalam to send parawise remarks and connected case records.

3. In the reference 7th read above, the Project Officer, ITDA, Bhadrachalam has furnished the para-wise remarks along with case record. The gist of para-wise remarks is as follows:

- Alleged sale deed and land revenue receipts on plain paper will not help the respondents. The burden lies on the non-tribal revision petitioner to show that his possession is lawful and not hit by the Regulation. Along with the appeal, either before the 2nd or 1st respondent, the Revision Petitioner has not filed single document how he came into possession. Without filing any document, the Revision Petitioner is claiming land of others.
- It is the duty of the Revision Petitioner to prove the alleged death of the petitioner. He has not produced any proof of death of Madiraju Subba Rao. The Revision Petitioner himself deleted the said Madiraju Subba Rao and filed the Revision before the Government against only the official respondents. As such on this ground also the Revision is not maintainable.
- Revision Petitioner has filed the Appeal through his Advocate, attended the court on 7.8.2004 and failed to produce documents – thus opportunity was given to him.

4. In the reference 9th read above, the Counsel for the Revision Petitioner has filed written arguments on the day of hearing.

5. Perused the record.

6. The Special Deputy Collector (TW), Palvancha had disposed the LTR case No.303/96/MKP, dated 5.3.1997 making the following order:

- Sri Madiraju Subba Rao (Non-Tribal) was proforma petitioner.
- Sri Gadagani Narsaiah S/o Ramachandraiah (Non-Tribal) was Respondent. Land under dispute is acs.1.20 gts – Sy.No.39 – Jagannadhapuram village, MulkalapallyMandal, Khammam District.
- Respondent present on 5.3.1997 and filed sada sale deed executed on 4.2.1969, land revenue receipts filed in case No.302/96/MKP.
- Verified pahani for the year 1970-71. Respondent was not in possession of suit land. Mere production of sale deed and land revenue receipts on plain not relied without valid evidence of pahani extracts.
- As per evidence placed before, it was proved that transfer of immovable property belonging to non-tribal (petitioner) was made to non-tribal (respondent) in contravention of sub-section (i) of section 3 of APSA LT Regulation I of 1959 R/W Regulation I of 1970, after its commencement.
- Therefore, ordered for ejectment of the respondent or whoever in possession of the immovable property described in the schedule to take into possession by Mandal Revenue Officer and assign it to eligible tribals as per rules in force.

7. Aggrieved by the above orders, the Appellant Sri Gadegoni Narsaiah had filed an Appeal before the Agent to Government, Khammam numbered as CMA No.25/2003 and transferred to the court of Additional Agent to Govt. & Project Officer, ITDA, Bhadrachalam re-numbered as CMA No.11/2003 and disposed on 16.10.2004 making the following order:

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- Before transferring the case to the court of Addl.Agent to Government & Project Officer, ITDA, Bhadrachalam, a publication was made in Vartha Paper dated 13.12.2003 asking the Respondent to attend on 16.12.2002.
- After transferring, Appellant attended on 24.1.2004 and stated that he purchased the land from Respondent (Madidraju Subba Rao, Non-Tribal) and would produce original document.
- On 28.2.2004 Sri N.Srinivasa Rao, Advocate had filed Vakalat on behalf of Appellant. Respondent No.1 set ex-parte and posted to 24.4.2004. Again posted to 7.8.2004 – Appellant was given one week time to produce documents. Appellant not filed any documents to prove his case.
- As seen from lower court order, the schedule land was purchased through a ordinary sale deed dated 4.2.1969 which is not valid one as it is not a registered sale deed. A sale is compulsory registerable document. As per pahani of 1970-71, the appellant was no in position of schedule land. If he had purchased the land prior to 1970, his name would have been recorded in the revenue records.
- As per evidence placed before the court, the transfer of immovable property belonging to one non-tribal was made to another non-tribal in contravention of sub-section 1 of section 3 of Regulation I of 1959 R/W 1/70. Therefore, the Appeal was dismissed confirming lower court orders.

8. In the references 10^h read above, the case was called on 07.11.2020. Petitioner called absent. Counsel for Petitioner present and prayed for two weeks time for submission of written arguments. Permitted. On 17.11.2020, Counsel filed LR petition, condone delay petition and also written arguments again.

9. It is informed that the original Revision Petitioner Sri Gadegoni Narsaiah was reported dead on 16.9.2006 leaving behind two sons and three daughters viz., 1) Gadegoni Srinivasa Rao S/o Narsaiah 2) Gadegoni Venkateswara Rao S/o Narsaiah 3) Karnati Chandrakala W/o Venkateshwar Rao 4) Pajjuri Kanakadurga W/o Satyanarayana 5) Vemul Padma W/o Karunakar. The Panchayat Secretary, G.P Jagandhapuram, Mulkalapally (M) issued Non-Availability Certificate No.01/NAC/JNP/2020, dated 04.11.2020, certifying that a search has been made on the request of Sri Gadegoni Srinivasa Rao S/o Narsaiah in the registration records for the year (s) 2006 relating to (local area) H.No.1-104/3, Mulkalapally (Tahsil), Jagannadhapuram GP of District Bhadradi Kothagudem and found that the event relating to the death of Sri Gadegoni Narsaiah S/o Ramachandraiah in Jagannadhapuram GP Mulkalapalli Mandal was not registered. There is no opposition to the substitution application to bring on record the legal heirs of original Revision Petitioner Sri Gadegoni Narsaiah – therefore, the same is allowed duly condoning delay in filing the same.

10. The Revision Petition, Written Arguments filed by the Counsel on behalf of the Petitioner are examined with reference to the documentary evidences available on record. The original Petitioner and his legal heirs have failed to file any documentary evidences either before the lower authority and before the appellate authority and also before the Government in the present Revision in support of their legitimate possession over the land admeasuring acs.1.20 gts situated in Sy.No.39 of Jagannadhapuram (v) in Mulkalapally Mandal of the present Bhadradi Kothagudem District. The case is pending since 7.2.2005 i.e. for more than (17) years.

11. Government, after careful examination of the matter and do not find any reason to interfere with the orders passed by the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam in CMA No.11 of 2003, dated 16.10.2004 and accordingly upheld the same and hereby dismiss the Revision Petition filed by Sri Gadegoni Narsaiah @ Narasimham represented by his Legal Heirs / Representations viz., Sri Gadegoni Srinivasa Rao & others of Jagannadhapuram (V), Mulkalapally Mandal, Bhadradi Kothagudem District.

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12. The Agent to Government and Collector, Bhadradri Kothagudem District shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Additional Agent to Government & PO, ITDA, Bhadrachalam,
Bhadradri Kothagudem district

Late Gadegoni Narsaiah@Narasimham S/o.Ramchandram@Ramachandraiah, (died)
his LR's:

Sri Gadegoni Srinivasa Rao S/o. Late Gadegoni Narsaiah@Narasimham

Sri Gadegoni Venkateswar Rao S/o. Late Gadegoni Narsaiah@Narasimham

Smt. Karnati Chandrakala W/o. Venkateswar Rao

Smt. Pajjuri Kanakadurga W/o. Satyanarayana

All R/o.Jagannadhapuram (V), Mulakalapalli (M), Bhadradri Kothagudem district.

Smt. Vemula Padma W/o. Karunakar,

R/o.Penuballi (V), V.M Banzar (M), Khammam district (Revision Petitioners)

Sri Madiraju Subba Rao R/o.Jagannadhapuram (V), Mulakalapalli (M),
Bhadradri Kothagudem district (Respondent)

M/s.T.L.K.Sharma & S.Balu Mahendra Advocates,
1-3-183/40/68/C/2, Opp: Play Ground No.II,
SBI Colony, Gandhinagar, Hyderabad-500080.

Copy to:-

The Agent to Government & Collector, Bhadradri Kothagudem district.

The Agent to Government & Collector, Khammam district.

The Special Deputy Collector (TW), Palvancha (Presently at Bhadrachalam),
Bhadradri Kothagudem District.

The Tahsildar Mulakalapally Mandal,
Bhadradri Kothagudem district.

(with instructions to serve the copy of GOs to above addresses (Petitioners and
Respondents).

The P.S to Minister (STW)

The PA to Secretary (TW)

The PA to Special Secretary (TW).

Sc/Sf.

//FORWARDED::BY ORDER//

SECTION OFFICER.